

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HAMPDEN, SS.

CIVIL ACTION NO. 05-30046-KPN

ALICE W. HALPIN,

Plaintiff

v.

RDC OF CONNECTICUT, INC.,  
R.D. CLARK AND SONS, INC.,  
KATELAND LEASING, INC.,  
PINNACLE TRANSPORTATION, INC.  
and CHINA GROVE TRANSPORT,  
INC.

Defendants

**PLAINTIFF/DEFENDANT-IN-COUNTERCLAIM'S ANSWER AND AFFIRMATIVE DEFENSES**

**COUNT I**  
**(Breach of Contract)**

1. The Defendant-in-Counterclaim admits the allegations contained in paragraph 1 of the Counterclaim.
2. The Defendant-in-Counterclaim admits the allegations contained in paragraph 2 of the Counterclaim.
3. The Defendant-in-Counterclaim admits the allegations contained in paragraph 3 of the Counterclaim.
4. The Defendant-in-Counterclaim admits entering into a Stock Purchase Agreement as alleged but denies that Kateland was engaged in the business of transporting petroleum products. Kateland operated as a leasing company.
5. The Defendant-in-Counterclaim admits the allegations contained in paragraph 5 of the Counterclaim.
6. The Defendant-in-Counterclaim admits the allegations contained in paragraph 6 of the Counterclaim.
7. The Defendant-in-Counterclaim denies that \$2,875,000.00 was paid in cash at the closing, but admits the remaining allegations contained in paragraph 7 of the Counterclaim.

8. The Defendant-in-Counterclaim denies that \$60,000.00 was paid in or about February 2004. Said payments were made over a period of time by virtue of a written agreement to pay for personal expenses of the Defendant-in-Counterclaim or her agents up to the amount of \$60,000.00. This compensation was made incrementally between February 2004 and November 2004. The Defendant-in-Counterclaim denies that RDC made these payments without obligation to do so.
9. The Defendant-in-Counterclaim admits that the language as set forth in paragraph 9 is accurate but denies that it provides all pertinent parts. The Defendant-in-Counterclaim affirmatively states that the Note provides that "there shall be no right of offset with regard to any matters covered by a certain Escrow Agreement of even date providing for sums to be paid with regard to vehicle repairs as set forth herein."
10. The Defendant-in-Counterclaim admits the allegations contained in paragraph 10 of the Counterclaim.
11. The Defendant-in-Counterclaim denies the allegations contained in paragraph 11 of the Counterclaim.
12. The Defendant-in-Counterclaim admits the allegations contained in paragraph 12 of the Counterclaim.
13. The Defendant-in-Counterclaim denies the allegations contained in paragraph 13 of the Counterclaim.
14. The Defendant-in-Counterclaim denies the allegations contained in paragraph 14 of the Counterclaim.
15. The Defendant-in-Counterclaim denies the allegations contained in paragraph 15 of the Counterclaim.
16. The Defendant-in-Counterclaim admits the allegations contained in paragraph 16 of the Counterclaim.
17. The Defendant-in-Counterclaim states that Section 14.8 of the Stock Purchase Agreement speaks for itself.
18. The Defendant-in-Counterclaim states that Section 14.13(c) of the Stock Purchase Agreement speaks for itself.
19. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 19 of the Counterclaim.

20. The Defendant-in-Counterclaim admits that a fine was paid to the DOT but denies that payment was made in March of 2004. The Defendant-in-Counterclaim denies that RDC incurred maintenance bills in excess of \$187,000.00 to obtain DOT inspection approval.
21. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 21 of the Counterclaim.
22. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 22 of the Counterclaim.
23. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 23 of the Counterclaim.
24. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 24 of the Counterclaim.
25. The Defendant-in-Counterclaim denies the allegations contained in paragraph 25 of the Counterclaim.
26. The Defendant-in-Counterclaim denies the allegations contained in paragraph 26 of the Counterclaim.
27. The Defendant-in-Counterclaim states that Section 4.11 of the Stock Purchase Agreement speaks for itself, admits that Tartan Maintenance Management, Inc. was a purchaser of tires for re-sale and as a result denies the remaining allegations contained in paragraph 27 of the Counterclaim.
28. The Defendant-in-Counterclaim states that Section 9.1(a) of the Stock Purchase Agreement speaks for itself.
29. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 29 of the Counterclaim.
30. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 30 of the Counterclaim.
31. The Defendant-in-Counterclaim admits to receipt of payment of interest expense but denies that said payment was not due and owing.
32. The Defendant-in-Counterclaim has insufficient information to either admit or deny the allegations contained in paragraph 32 of the Counterclaim.

WHEREFORE, the Defendant-in-Counterclaim, Alice W. Halpin, demands that Judgment enter in favor of the Defendant-in-Counterclaim and award her costs in

defending this action, including attorney's fees as provided under the Stock Purchase Agreement, Note, Guaranties and Security Agreements.

**COUNT II**  
**(93A)**

33. The Defendant-in-Counterclaim reasserts and realleges its answers to the allegations contained in paragraphs 1 through 32 of the Counterclaim.
34. The Defendant-in-Counterclaim denies the allegations contained in paragraph 34 of the Counterclaim.
35. The Defendant-in-Counterclaim denies the allegations contained in paragraph 35 of the Counterclaim.
36. The Defendant-in-Counterclaim denies the allegations contained in paragraph 36 of the Counterclaim.

WHEREFORE, the Defendant-in-Counterclaim, Alice W. Halpin, demands that Judgment enter in favor of the Defendant-in-Counterclaim and award her costs in defending this action, including attorney's fees as provided under the Stock Purchase Agreement, Note, Guaranties and Security Agreements.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Defendant's Counterclaim fails to state a claim for which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

The Defendant's claims are barred by the applicable statute of limitations.

**THIRD AFFIRMATIVE DEFENSE**

The Plaintiff has acted at all times in good faith, reasonably and justifiably.

**FOURTH AFFIRMATIVE DEFENSE**

The Plaintiff states that the Defendant is estopped from asserting a breach of contract claim.

**FIFTH AFFIRMATIVE DEFENSE**

The Plaintiff states that the Defendant's action is brought in violation of the applicable statute of frauds.

**SIXTH AFFIRMATIVE DEFENSE**

The Plaintiff states any amounts due to the Defendant are subject to offset.

**SEVENTH AFFIRMATIVE DEFENSE**

The Plaintiff states any damages sustained by the Defendant are the result of the action(s) of third parties, for which the Plaintiff is not legally responsible.

**EIGHTH AFFIRMATIVE DEFENSE**

The Plaintiff states that the Defendant's claims are barred due to the doctrine of unclean hands.

**NINTH AFFIRMATIVE DEFENSE**

The Plaintiff reserves the right to add such other affirmative defenses that may become apparent as a result of further proceedings in this matter.

Respectfully submitted,  
The Plaintiff,  
Alice W. Halpin,  
By Her Attorneys,

/s/Robert S. Murphy, Jr.  
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April 4, 2005

**CERTIFICATE OF SERVICE**

I, Robert S. Murphy, Jr., hereby certify that on April 4, 2005, I caused a copy of the foregoing Plaintiff/Defendant-in-Counterclaim's Answer and Affirmative Defenses to be served upon all interested parties by mailing a copy thereof, postage prepaid, first class mail to: Michael E. MacDonald and Diane Degiacomo, Cane, Hibbard, Mayers & Cook, P.C., 66 West Street, Pittsfield, MA 01201

/s/Robert S. Murphy, Jr.  
Robert S. Murphy, Jr.